

NEW MEXICO BULLETIN



E-Liquid and Closed System Cartridges Taxation

Based on 2019 legislative session changes to the Tobacco Products Tax Act effective July 1, 2019, the list of taxable products now include e-liquid, e-cigarettes, and closed system cartridges as defined in Section 7-12A-2(L) NMSA 1978. The first purchasers of these products are subject to the tobacco products tax. Per Section 7-12A-2(H) NMSA 1978, the "first purchaser" means "a person engaging in business in New Mexico that manufactures tobacco products or that purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business."

The tobacco products tax return and payment is due the 25th day of the month following the month in which the taxable event occurred. You will need to register to file the tobacco products tax returns. If you do not have a combined reporting system (CRS)/New Mexico business identification number, you will need to submit form [ACD-31015](#), *Application for Business Tax* and form [RPD-41218](#), *Registration for Special Tax Programs*. You can also apply for a CRS ID on the Taxation and Revenue Departments Taxpayer Access Point (TAP) here <https://tap.state.nm.us/Tap/>. If you already have a CRS/ New Mexico business identification number, you will still need to submit form [RPD-41218](#). In order to file your tobacco products tax, please use form [RPD-41192](#), *Tobacco Products Tax Return*.

For the manufacture or acquisition of e-liquid in New Mexico to be distributed in the ordinary course of business and for the consumption of e-liquid in New Mexico, there is an excise tax at a rate of twelve and one-half percent (12.5%) of the product value of the e-liquid.

For the manufacture or acquisition of closed system cartridges (see definition below) in New Mexico to be distributed in the ordinary course of business, there is imposed an excise tax at a rate of fifty cents (\$0.50) per closed system cartridge.

Per Section 7-12A-2(L) NMSA 1978, new definitions are as specified below:

- ◆ closed system cartridges means "a single-use, pre-filled disposable cartridge containing five milliliters or less of e-liquid for use in an e-cigarette";
- ◆ e-cigarette means "any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance that use or inhalation of which simulates smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor. "E-cigarette" does not include any product regulated as a drug or device by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act";
- ◆ e-liquid means "liquid or other substance intended for use in an e-cigarette, not including any substance containing cannabis or oil derived from cannabis".

Note that the final sales of these products are still subject to the Gross Receipts and Compensating Tax Act, unless a specific exemption or deduction applies to that sale.

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Visit the Department's web site at <http://www.tax.newmexico.gov> for forms and instructions.

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General Information. FYIs and Bulletins present general information with a minimum of technical language. All FYIs and Bulletins may be obtained without charge from all local tax offices, the Tax Information and Policy Office in Santa Fe and the Department's Internet site.

This information is as accurate as possible at time of publication. Subsequent legislation, new state regulations and case law may affect its accuracy. For the latest information please check the Taxation and Revenue Department's web site at www.tax.newmexico.gov.

This publication provides instructions or general information to the taxpayer. It does not constitute a regulation or ruling as defined under Section 7-1-60, *New Mexico Statutes Annotated*, 1978. Taxpayers and preparers are responsible for being aware of New Mexico tax laws and rules. Consult the Department directly if you have questions or concerns about information provided in this Bulletin.